

**AUBURN CITY COUNCIL MINUTES**  
**REGULAR SESSION**  
**February 28, 2005, 6:00 p.m.**

The Regular Session of the Auburn City Council was held in the Council Chamber, City Hall at 1225 Lincoln Way, Auburn, California with mayor Alice Dowdin presiding and City Clerk Joseph G.R. Labrie recording the minutes.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Council Members Present:** Kevin Hanley, Mike Holmes, Keith Nesbitt, Bob Snyder, Alice Dowdin

**Council Members Absent:** None.

**Staff Members Present:** City Manager Bob Richardson  
City Attorney Charles Wachob  
Fire Chief Mark D'Ambrogi  
Public Works Director Charles Clark  
Community Development Director Will Wong  
Associate Planner Reg Murray  
Engineering Division Manager Bernie Schroeder  
Airport Manager Jerry Martin

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS**

Mayor Dowdin congratulated all those who participated in the Endurance Challenge.

**AGENDA APPROVAL**

Approved.

## CONSENT CALENDAR

1. **Council Minutes**

Item removed by Council Member Snyder; follows Consent Calendar.

2. **Memorandum of Understanding for Jurisdictions in the Placer Regional Stormwater Collaboration Group (PRSCG)**

Item removed by Council Member Nesbitt; follows Consent Calendar.

3. **Grayhorse Subdivision Acceptance**

Item removed by Council Member Nesbitt; follows Consent Calendar.

4. **California Aid to Airports Program Grant**

By **RESOLUTION 05-10** authorize the City Manager to execute California Aid to Airports Grant No. PLA-1-04-1-Mat.

5. **Auburn Union Elementary School District Project, Administration Building-Notice of Completion**

By **RESOLUTION 05-20** authorize the Director of Public Works to record a Notice of Completion for the Auburn Union Elementary School District Project – Administration Building on Epperle Lane.

6. **Auburn Union Elementary School District Site Improvement Project – Notice of Completion**

By **RESOLUTION 05-21** authorize the Director of Public Works to record a Notice of Completion for the Auburn Union Elementary School District Site Improvements on Epperle Lane.

7. **Reclassification of Finance Director Compensation Range**

By **RESOLUTION 05-22** reclassify the existing compensation range for the Finance Director position from 120M to 124M.

\*\*\*\*\* End of Consent Calendar \*\*\*\*\*

By **MOTION** approve Consent Calendar as amended. **MOTION: Holmes/Hanley/Approved 5:0**

8. **Council Minutes**

A correction was made on a vote taken in the December 6<sup>th</sup> meeting. No impact on the result.

By **MOTION** approve City Council Minutes of December 6 & 13, 2004.  
**MOTION: Hanley/Holmes/Approved by voice.**

9. **Memorandum of Understanding for Jurisdictions in the Placer Regional Stormwater Collaboration Group (PRSCG)**

Council Member Nesbitt needed clarification on Auburn's share of the costs.

By **RESOLUTION 05-17** authorize the City Manager to execute on behalf of the City of Auburn the Memorandum of Understanding between the Placer County Regional Stormwater Coordination Group (PRSCG) and the City of Auburn. **MOTION: Nesbitt/Hanley/Approved 5:0**

10. **Grayhorse Subdivision Acceptance**

Council Member Nesbitt drew attention to a sidewalk that was built on the corner of Auburn Folsom and Maidu Roads. Nothing has been done to the strip of land between the sidewalk and the road. He thought the project lacks completion because of that unlandscaped piece.

Community Development Director Will Wong said there were no requirements for landscaping in that area and it was not a condition of approval. It was to remain open space. It is to be maintained by the homeowners association.

Mayor Dowdin said it would be a good idea for the City to make a suggestion to the developer.

Art Krueger had concerns about the walls, berms and the shortness of some streets. Mayor Dowdin told him that these are specifics of the project and were approved when the project was approved. The Council cannot take action on these items at this time, based on what is on the agenda tonight.

Council Member Bob Snyder suggested, and the Council agreed, that this item be continued to the end of this meeting in order for Mr. Krueger to have time to meet with city staff during the break.

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RETURN

Community Development Director Will Wong told the Council that he met with Mr. Krueger and that Mr. Krueger *“merely wanted to make the point that the Council had the ability to take ownership and that was something that we had brought to the Council in the past about ARD or the Placer Land Trust and I did tell him that the other improvements in the open space area were per the approved plan and it was approved to be kept natural. So I explained that and he had no further comments.”*

By **RESOLUTION 05-18** accept the Grayhorse Subdivision Public Improvements. **Motion: Holmes/Snyder/Approved 5:0**

11. **Public Comment**

Art Krueger said the Council should rethink the mayoral selection process. He said Auburn is a business and should be run like one.

Council Member Holmes said he had asked City staff to take a look at the designation of Heritage Homes in the Auburn community and to research the Heritage homes process in Grass Valley and Nevada City and bring it back to the Council.

**PUBLIC HEARING**

12. **Appeal – Tentative Subdivision Map, Civic Design, Tree Permit – 10700 Indian Hill Road (Indian Hill Office Park)-Files SUB 04-3; CD 04-1: TP 04-7**

Council Member Nesbitt, whose residence is well outside of the notification area and any interest he might have in common property is beyond the area involved, recused himself from this item in order to avoid any perception of conflict of interest, even though the City Attorney determined there was no conflict.

Associate Planner Reg Murray described the project and summarized the two appeals:

- 1) The Hurder/Krueger appeal regarding zoning,
- 2) The Kollenberg appeal regarding the cumulative impacts of the project.

The Hurder/Krueger appeal cited improper notification that the project would allow additional commercial development. Staff noted in their report that the zoning was done in 1995 and was done to insure consistency with our General Plan that was adopted in 1993. The General Plan and the rezoning action were done in conformance with law.

All the appeal periods and the Statute of Limitations associated with those actions have expired. The project itself is consistent with the office building zone and does not have a rezone action associated with it. There are other commercial properties adjacent to or in the area. If the Council were to consider the rezone appeal, that could be considered a “taking” and would expose the City to litigation.

The Kollenberg appeal dealt with the inadequacy of the environmental documents, the inability of the City to provide services and also with scenic corridor issues and concerns. The staff report indicates that, to date, no satisfactory supporting information has been provided by the appellant. The development is less than what was originally assumed by the General Plan. Adequate documentation has been provided to the Planning Commission when they took their action on the project as well as the environmental documents. Services are or will be available for the project. The General Plan did identify that certain scenic corridor impacts were going to be unavoidable. The project was clustered over a portion of the site, as opposed to being spread out over the entire site and portions of the project were compressed into the landscape. The issue about the sidewalk along Auburn Folsom Road was discussed at length at the Planning Commission hearing. Ultimately the Planning Commission approved the project without the sidewalk.

Planning Commission Chair Beryl Smith said the developer spent much time meeting with the neighbors and listening to suggestions from the Planning Commission, which had placed about 169 conditions on the project. The developers made considerable changes to the plans and even redesigned the building. Mr. Smith said that, after hearing everything on both sides, the Planning Commission voted unanimously to approve the project.

### APPELLANTS

Appellant John Hurder of 11145 Sunrise Ridge Circle said he made this appeal for many reasons, but the most important of them was the rezoning process in the City. This project is in the middle of a residential neighborhood and “will overlook all of our houses”. He said he realized the City followed all the rules and published the notices in the local classifieds, but a lot of people don’t look at the classifieds. For all future rezoning issues he strongly recommended that the City use direct notification of taxpayers by mail. The homeowners associations were apparently notified on time but the homeowners themselves were not.

Appellant Art Krueger said this is a defining piece of property located in a strategic location at the intersection of two accesses to the City of Auburn.

He suggested the Council send this item back to the Planning Commission and reconsider what the City wants to do with this property. He also urged the Council to come up with a comprehensive Master Plan.

### APPLICANTS

Bridget Barnes, Development Counsel for Mr. Azevedo, responded to Mr. Hurder about the lack of notice. She said government code does not require any type of in persona notice. Even though individuals were not notified, her search of the records shows that there were 34 separate notices of meetings in the beginning portions of the Auburn Journal from December 6, 1990 to September 11, 1992. These were citizens' meetings discussing every aspect of the General Plan. Thereafter, from November 1992 through June of 1993, ten additional public hearings were held by the Citizens Advisory Committee and the Planning Commission (some jointly and some separately). Then there were four Council hearings on the General Plan. Between 1992 and 1996 there were three formal Planning Commission and City Council hearings dealing with the adoption of the zoning ordinance. These were extensively discussed in the Auburn Journal as well as the public notices that were necessarily provided.

Responding to appellant Art Krueger about the legality of the zoning, City Attorney Charles Wachob told him *"It's too late to undo the zoning that was placed on that property in 1993 and 1995 by the previous Council actions. The Statute of Limitations to challenge those actions of the Council passed years ago."*

Mayor Dowdin added that the *"project applicant is not requesting the property be rezoned. The project applicant is asking to have the project approved that is consistent with the current zoning for the site. The zoning is not an issue that is before the City at this time. That is the main difference; that is the difference. Before, the property owners requested the zone change. In this instance the property owner is not requesting a zone change."*

Then Mr. Krueger said *"Well then, in that case, our appeal is mute. We should get our money back. I mean, you know, it was, it didn't have a life from day one. That certainly wasn't conveyed to us."*

City Attorney Charles Wachob told him *"you have the right to appeal on whatever basis you want."*

Mayor Dowdin added: *"And we have the responsibility to hear that. Whether or not we can take action, we are obligated to hear your appeal."*

Mr. Krueger then asked for a continuance. The Mayor said she would want substantial evidence for making that decision and she said she didn't believe that he would be able to find that information.

#### THE KOLLENBERG APPEAL

Appellant Mary Ann Kollenberg gave a summary of her written appeal, which is included in the agenda. In addition to those concerns she asked that the Council develop a new General or Master Plan for that area.

Karen Schwab of Barnes & Associates, attorneys for the applicant, addressed the issues of concern to appellant Kollenberg. In addition Ms. Barnes produced a written reply to all of Ms. Kollenberg's concerns expressed in her supplemental letter submitted to the Council on 2/20/05.

Ken Anderson of K.D. Anderson Transportation Engineers also responded in writing. In addition he said that the project before the Council is consistent with all the planning that has been done by the County and by the City.

Tom Plummer of Civil Engineering Solutions, Inc. said the project does not propose to drain where it did not in the past. There will be less runoff after the project is built.

Tom Trap of G.W. Consulting Engineers said they had not yet identified where the excess excavated soil will go. Wherever it goes, it will be done with a permit.

#### PUBLIC COMMENT IN SUPPORT OF APPEAL

Rick Sanborn of Auburn said he was concerned about safety on Auburn Folsom Road. A sidewalk is needed; if one cannot be provided, then the shoulder of the road should be made wider.

Art Krueger expressed doubts about the environmental impact of this project.

Greg Arz of Tanglewood Drive in Auburn said this project is in an established scenic corridor that needs to be protected. He said the City needs to abide by the General Plan.

Tina Tuohy said one solution would be to make the buildings smaller.

Art Woodward expressed opposition to the sidewalks.

## PUBLIC COMMENT IN OPPOSITION TO APPEAL

Dan Sokol of 1330 Deerwood Place said he thought this project is better than houses. There would be less *“looking down”* from the office complex during the day, evenings and weekends than from houses. Traffic would also be much less.

Mr. Gonzales said the vista issue is not relevant because 2-story houses would be worse.

John Dunlap of 10905 Sunrise Ridge Circle said the developer has gone out of his way to accommodate the neighbors. Because of the sidewalk issue, the developer has also offered a \$50,000 trust account for future pedestrian safety to be used at the City’s pleasure.

## APPELLANT REBUTTAL

Appellant Mary Ann Kollenberg said the Environmental Impact Report (EIR) should have been requested in the very beginning. Also the water runoff issue was not addressed; where to put the excavated soil was not addressed; air pollution and the tree issue were not adequately addressed.

## APPLICANT REBUTTAL

Attorney Brigit Barnes said that the appellant had not presented one iota of evidence in support of her appeal. In addition, Ms. Barnes provided the Council a written rebuttal to all of the appellant’s written concerns.

## PUBLIC COMMENT

In response to Council Member Snyder, attorney for the applicant Brigit Barnes said the City would retain, as one of the conditions, the offer of dedication, which allows for widening, as the City would wish, according to City standards. In addition, the offer of \$50,000, which could be used for either a sidewalk here or for a *“sidewalk/walkability”* fund for the investigation of more appropriate locations.

Council member Hanley agreed with the Planning Commission. The slope and condition of the property and the speed of the traffic would make it unsafe to cross Auburn Folsom Road. He supports using the \$50,000 for sidewalks elsewhere.

Council Member Holmes agreed and supports dedicating a right-of-way and using the money to repair sidewalks in other parts of the City.



Mayor Dowdin said safety is extremely important. The topography does not support a sidewalk. She supports widening the street for a bicycle path.

Dan Sokol said a sidewalk would be safer because there are already many walkers there.

Richard Sanborn favored a sidewalk or a wider road. The \$50,000 trust used elsewhere would not solve the problem here.

Barbara Kensett supported the Planning Commission.

Tim DeWitt said a sidewalk in that location would be too dangerous.

Roger Kihara expressed concern about signage. He doesn't want signs on the south side of Auburn Folsom Road. He also suggested the roofline of the buildings be lowered.

Developer Richard Azevedo promised there would be no signs on Auburn Folsom Road.

#### COUNCIL DISCUSSION

Bob Snyder said we are fortunate to have a landowner who was sensitive to community needs. He applauded the developers' willingness to make concessions and to work with the community. The density of the development is not very high, the height is not very high and the visual impact of the buildings has been mitigated to a great extent. Auburn needs more commercial buildings.

Kevin Hanley said the Plan was consistent with the General Plan. He counted 34 citizen advisory committee meetings, 10 Planning Commission meetings and 4 City Council meetings; so there was adequate discussion. One of the benefits of have mixed use and having enough commercial buildings in the City will be to help fund the infrastructure of the City.

Mike Holmes agreed with Hanley; there was adequate public notification. This project is the most benign project for that area. Rezoning to Residential would have a worse impact. He was concerned that a sidewalk there would be more unsafe, especially for skateboarders.

Mayor Dowdin said the applicant was willing to listen to the public concerns. She agreed with Mr. Hurder that noticing procedures should be looked at in order to get more public participation.

Ms. Dowdin said the project is consistent with the General Plan and with smart growth. She is satisfied that the mitigation measures that were provided in the negative declaration and SEQA have been met. Mixed housing is smart growth. The property owners have every right to propose a project that is consistent with the General Plan. She urged the Council denial of both appeals, but with certain conditions specified in item F below.

- A. By **MOTION** deny the Hurder/Krueger appeal. **MOTION: Holmes/Hanley/ Approved 4:0/Abstain: Nesbitt**
- B. By **MOTION** deny the Kollenberg appeal. **MOTION: Holmes/Hanley/ Abstain: Nesbitt**
- C. By **MOTION** adopt the following findings of fact for the Mitigated Negative Declaration for the Indian Hill Office Park:
  - 1. The City Council, on the basis of the whole record before it (including the initial study and any comments received) finds that there is no substantial evidence that the project will have a significant effect on the environment and that the mitigated negative declaration reflects the lead agency's independent judgment and analysis.
  - 2. All documents and materials relating to the proceedings for the Indian Hill Office Park are maintained in the City of Auburn City Clerk's Office, 1225 Lincoln Way, Auburn, CA 95603.
  - 3. The City Council has determined that mitigation measures have been identified in the Mitigated Negative Declaration, which mitigates all potentially significant impacts to a less than significant level. The City Council adopts with this motion the Mitigation Monitoring and Reporting Plan (Exhibit B of this report) and specifically finds that all mitigation measures identified in the Mitigated Negative Declaration have been incorporated in the MMRP and that these measures have been agreed to by the applicant and are fully enforceable through CEQA and applicable City Ordinances. **MOTION: Snyder/Hanley/ Approved 4:0/Abstain: Nesbitt**
- D. By **MOTION** adopt the Mitigated Negative Declaration for the Indian Hill Office Park. **MOTION: Hanley/Holmes/Approved 4:0/Abstain: Nesbitt**
- E. By **MOTION** adopt the following findings of fact for the Indian Hill Office Park Tentative Subdivision Map (File SUB 04-3):
  - 1. The proposed subdivision is consistent with the Auburn General Plan.
  - 2. The design or improvement of the proposed subdivision is consistent with the objectives, policies, general land uses, and programs specified in the Auburn General Plan.

3. The site is physically suitable for the proposed development.
4. The site is physically suitable for the proposed density of development.
5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. The design of the subdivision or improvements is not likely to cause serious public health problems.
7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. **MOTION: Hanley/Holmes/Approved 4:0/Abstain: Nesbitt**

F. Adopt the following conditions:

1. By **MOTION**, prior to the issuance of the first occupancy permit, the developer shall provide a \$50,000 fee in lieu of a sidewalk on Auburn Folsom Road. The fee shall be used by the City to fund pedestrian projects in other areas of the City. **MOTION: Dowdin/Hanley/Approved 4:0/Abstain: Nesbitt**
  2. By **MOTION**: Permanent signs shall not be permitted along Auburn Folsom Road and wall signs shall not be permitted on the southern building elevations. **MOTION: Dowdin/Holmes/Approved 4:0/Abstain: Nesbitt**
  3. By **MOTION** adopt the condition to modify sub condition 24 with regards to the bike path, to state that improvements shall also include striping and signage for a Class II bike path. **MOTION: Dowdin/Snyder/Approved 4:0/Abstain: Nesbitt**
- G. By **MOTION** approve the Tentative Subdivision Map (File SUB 04-3) for the Indian Hill Office Park subject to the conditions listed in [Exhibit A](#) (or as modified by the City Council). **MOTION: Snyder/Holmes/Approved 4:0/Abstain: Nesbitt**
- H. By **MOTION** approve the Civic Design (File CD 04-1) for the Indian Hill Office Park subject to the conditions listed in [Exhibit A](#) and as modified by the City Council. **MOTION: Snyder/Hanley/Approved 4:0/Abstain: Nesbitt**
- I. By **MOTION** adopt the following findings of fact for the Tree Permit (File TP 04-7) for the Indian Hill Office Park:
1. Approval of the tree permit will not be detrimental to the public health, safety, or welfare;

2. Approval of the tree permit is consistent with the provisions of the Tree Ordinance; and
3. Measures have been incorporated in the project or the permit to mitigate impacts to remaining trees or to provide replacement for trees removed. **MOTION: Hanley/Snyder/Approved 4:0/Abstain: Nesbitt**

- J. By **MOTION** approve the Tree Permit (File TP 04-7) for the Indian Hill Office Park subject to the conditions listed in [Exhibit A](#). **MOTION: Holmes/Snyder/Approved 4:0/Abstain: Nesbitt**

## **REPORTS**

13. **Informational Reports from Staff**

- A. Public Works Director

Staff reports were continued.

14. **City Council Committee Reports**

None.

## **COUNCIL BUSINESS**

15. **Arts Commission Ordinance Amendment-2<sup>nd</sup> Reading**

Hold second reading by title only and by **ORDINANCE 05-4** amend the Auburn Municipal Code. **MOTION: Holmes/Nesbitt/Approved 5:0**

Second reading by title only by City Attorney Charles Wachob.

**Return to Item 3.**

16. **Amend Staffing Allocation for Community Development Department**

Community Development Director Will Wong said that within his department there would be a minor cost of \$4,200 and a potential net savings of \$8,200.

By **RESOLUTION 05-23** amend staffing allocation for the Community Development Department for the promotion of the Associate Planner to Senior Planner and the upgrading of the Assistant Planner position to an Associate Planner.

17. **Consultant Agreement with North Fork Associates to Supplement Planning Staff**

Community Development Director Will Wong said once a new associate planner is hired he will no longer need North Fork Associates to supplement City Of Auburn staff.

By **RESOLUTION 05-24** authorize the Community Development Director to execute a Consultant Agreement between the City of Auburn and North Fork Associates for planning services to supplement planning staff during staffing vacancy. **MOTION: Hanley/Nesbitt/Approved 5:0**

18. **Consultant Agreement with North Fork Associates for Reimbursable Planning Services and Establish Fee Schedule for Planning Applications**

- A. By **RESOLUTION 05-25** authorize the Community Development Director to execute a Consultant Agreement between the City of Auburn and North Fork Associates for reimbursable planning services. **MOTION: Holmes/Nesbitt/Approved 5:0**
- B. By **RESOLUTION 05-26** establish the fee for an Initial Study/Negative Declaration, Initial Study/Mitigated Negative Declaration, Environmental Impact Report and Annexation to be “at cost” with a \$500 deposit with no deposit on the initial Negative Declaration. **MOTION: Dowdin/Hanley/Approved 5:0**

**ADJOURNMENT** at 10:55 p.m.

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Alice Dowdin, Mayor

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Joseph Labrie, City Clerk